

<sup>2</sup> The Board notes that following the June 12, 2018 decision, OWCP received additional evidence. Appellant also submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

been caused or aggravated by his federal employment. He stated that prior to a February 4, 2014 left knee work injury that he had no problems with his knees.

By decision dated January 29, 2018, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish causal relationship between the diagnosed bilateral knee conditions and the accepted factors of his federal employment. In denying appellant's claim, it referenced medical evidence contained in OWCP File No. xxxxxx681, including reports from Dr. Joseph Stubel, a treating physician Board-certified in orthopedic surgery and sports medicine. On March 20, 2018 counsel requested reconsideration and provided additional evidence. By decision dated June 12, 2018, OWCP denied modification.

The Board finds that this case is not in posture for decision. Pursuant to 20 C.F.R. § 501.2(c)(1), the Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Decisions on claims are based on the written record, which may include forms, reports, letters, and other evidence of various types such as photographs, videotapes, or drawings.<sup>3</sup> Evidence may not be incorporated by reference, nor may evidence from another individual's case file be used.<sup>4</sup> Evidence contained in another of the claimant's case files may be used, but a copy of that evidence should be placed into the case file being adjudicated.<sup>5</sup> All evidence that forms the basis of a decision must be in that claimant's case record.<sup>6</sup>

In adjudicating the present occupational disease claim, File No. xxxxxx897, OWCP specifically referenced medical evidence obtained from his prior traumatic injury claim, File No. xxxxxx681, which was accepted on April 7, 2014 for left knee sprain. However, it did not combine the two case records or incorporate the referenced evidence into the current case record.<sup>7</sup> The Board is therefore not in a position to make an informed decision regarding appellant's entitlement to FECA benefits.<sup>8</sup> The case shall be remanded to OWCP to administratively combine case File Nos. xxxxxx897 and xxxxxx681. Following this and any other further development as deemed necessary, it shall issue a *de novo* decision regarding appellant's occupational disease claim under OWCP File No. xxxxxx897.

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<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.5(a) (June 2011).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000) (cases should be combined when correct adjudication of the issues depends on frequent cross-referencing between files).

<sup>8</sup> See *C.R.*, Docket No. 17-1262 (issued May 21, 2018); *K.P.*, Docket No. 15-1945 (issued February 10, 2016); *M.C.*, Docket No. 15-1706 (issued October 22, 2015).

**IT IS HEREBY ORDERED THAT** the June 12, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this order.

Issued: March 8, 2019  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board